



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/173050

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 23, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Calumet County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on April 21, 2016, at Chilton, Wisconsin.

The issue for determination is whether the county agency correctly determined Petitioner's cost share or patient liability obligation.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]

Calumet County Department of Human Services  
206 Court Street  
Chilton, WI 53014-1198

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Calumet County.
2. Petitioner or his representative was sent a Notice of Decision dated September 15, 2015 that informed him that his cost share or patient liability amount was to be \$1296.00 effective September 1, 2015.

3. This appeal was filed on March 23, 2016.
4. Petitioner currently has income from Social Security Disability income (SSDI) in the amount of \$1341.00 per month.
5. From the \$1912.00 the agency subtracted a personal needs allowance of \$45.00 making the patient liability amount \$1296.00. Petitioner's SSDI is garnished in the amount of \$110.00 to recover an outstanding student loan.

### **DISCUSSION**

After an institutionalized person is determined eligible for Medicaid, a county agency must calculate the amount of income the institutionalized person must contribute to defray the cost of care incurred by Medicaid on his or her behalf on a monthly basis. This is referred to as the person's "patient liability."

Medical assistance rules require institutionalized persons to "apply their available income toward the cost of their care." *Wis. Admin. Code § DHS 103.07(1)(d)*. The calculation begins with gross income, and only a few items may be subtracted as deductions. These include the statutory \$45 personal deduction and, in some cases, a home maintenance deduction. *Wis. Admin. Code § DHS 103.07(1)(d)*, and the federal rule at *42 C.F.R. § 435.725*. The formula for calculating the patient liability amount is set out at *Medicaid Eligibility Handbook (MEH)*, §27.7.1:

...

Calculate the cost of care in the following way:

1. For a Medicaid member in a medical institution who does not have a [community spouse](#), subtract the following from the person's monthly income:
  - a. \$65 and ½ earned income [disregard](#) ([15.7.5 \\$65 and ½ Earned Income Deduction](#)).
  - b. Monthly cost for health insurance ([27.6.4 Health Insurance](#)).
  - c. Support payments ([15.7.2.1 Support Payments](#)).
  - d. Personal needs allowance ([39.4 EBD Assets and Income Tables](#)).[\$45.00]
  - e. Home maintenance costs, if applicable ([15.7.1 Maintaining Home or Apartment](#)).
  - f. Expenses for establishing and maintaining a court-ordered guardianship or protective placement, including court-ordered attorney and/or guardian fees ([27.6.6 Fees to Guardians or Attorneys](#)).
  - g. Medical Remedial Expenses. See [27.7.8 Payment for Non-Covered Services](#).

...

Petitioner's representative filed the appeal to see if a \$110.00 garnishment from Petitioner's SSDI for an outstanding student loan can be a deduction from income. Because of that garnishment Petitioner's income is less than the cost share. The MEH directs, however, that garnishments not be deducted from gross income. *See MEH, §15.1.5*. There is no legal authority to ignore the MEH unless it conflicts with Federal or State law. I am not aware of a conflict here. In reviewing the agency calculations of Petitioner's patient liability I do not find any errors.

### **CONCLUSIONS OF LAW**

The county agency correctly determined Petitioner's patient liability.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

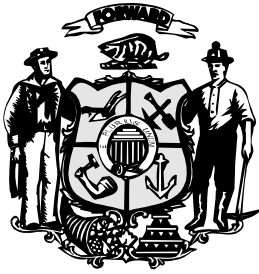
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 9th day of June, 2016

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on June 9, 2016.

Calumet County Department of Human Services  
Division of Health Care Access and Accountability